

2013 DRAFTING REQUEST

Bill

Received: 4/17/2013	Received By: mduchek
Wanted: As time permits	Same as LRB:
For: Health Services	By/Representing: Alex Ignatowski
May Contact:	Drafter: mduchek
Subject: Health - miscellaneous	Addl. Drafters:
	Extra Copies:

Submit via email: **YES**
 Requester's email: **Alex.Ignatowski@dhs.wisconsin.gov**
 Carbon copy (CC) to: **tamara.dodge@legis.wi.gov**

Pre Topic:

No specific pre topic given

Topic:

Increase penalty for violations of statutes related to lead poisoning/exposure

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mduchek 5/3/2013			_____			
/P1	mduchek 5/14/2013	evinz 5/14/2013	jmurphy 5/14/2013	_____	sbasford 5/6/2013		
/1				_____	srose 5/14/2013	srose 5/14/2013	

FE Sent For:

↳ Not
Needed

<END>

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/P1		evinz 5/6/2013	rschluet 5/6/2013		sbasford 5/6/2013		

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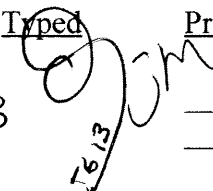
Topic:

Increase penalty for violations of statutes related to lead poisoning/exposure ✓

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See attached

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1/?	mduchek	1pl rev 5/6/13					

FE Sent For:

<END>

Duchek, Michael

From: Barman, Mike
Sent: Tuesday, April 16, 2013 10:48 AM
To: Dodge, Tamara; Duchek, Michael
Subject: FW: Drafting Request

From: Ignatowski, Alex - DHS [<mailto:Alex.Ignatowski@dhs.wisconsin.gov>]
Sent: Tuesday, April 16, 2013 10:27 AM
To: LRB.Legal
Cc: Moore, Kevin E - DHS; Hitt, Andrew A - DHS
Subject: Drafting Request

To whom it may concern,

On behalf of the Department of Health Services I am requesting that the following language be drafted:

Revised language requested for ss. 254.30 (2) (a), Wis. Stats.

(2) PENALTIES. 254.30(2)(a)(a) *Civil penalty.* Any person who violates ss. 254.11 to 254.178 or rules promulgated, or orders issued, under those sections may be required to forfeit not less than \$100 nor more than ~~\$1,000~~ \$5,000 per violation. Each day of continued violation constitutes a separate offense.

Please let me know if you have any further questions.

Regards,

Alex

Alex Ignatowski
Legislative Advisor
Department of Health Services
Office: 608-266-3262
Mobile: 608-301-6149
alex.ignatowski@wisconsin.gov



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2187/P1

MED:.....

Leev

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA/yrpfj
including provisions prohibiting the sale and use of lead paint and requiring screenings for lead exposure for certain programs and institutions

1 **AN ACT** ^{Gen} relating to: penalties for violating provisions related to lead poisoning
2 and exposure and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law contains a number of provisions related to preventing and minimizing lead poisoning and lead exposure. Current law provides that any person who violates these provisions or rules promulgated, or orders issued, under these provisions is subject to a civil forfeiture of not less than \$100 nor more than \$1,000 and provides that each day of continued violation constitutes a separate offense. This bill increases the maximum amount of the civil forfeiture for such a violation from \$1,000 to \$5,000.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1.** ^X 254.30 (2) (a) of the statutes is amended to read:
4 254.30 (2) (a) *Civil penalty.* Any person who violates ss. 254.11 to 254.178 or
5 rules promulgated, or orders issued, under those sections may be required to forfeit
6 not less than \$100 nor more than \$1,000 \$5,000. Each day of continued violation
7 constitutes a separate offense.

SECTION 2. Initial applicability.

(1) This act first applies to violations of sections 254.11 to 254.178 of the statutes or rules promulgated, or orders issued, under those sections that occur on the effective date of this subsection.

(END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2187/P1dn

MED:l:....

eev

Date

Alex:

I did not add the requested language to the statutes of "per violation" because the second sentence of this provision provides that each day of continued violation ~~consistutes~~ a separate offense, which I think conveys this idea. If you still feel this language is necessary, please let me know, but in that case I would recommend also addressing s. 254.30 (2) (b), stats., because it contains language similar to the provision being amended.

constitutes

Michael Duchek
Legislative Attorney
Phone: (608) 266-0130
E-mail: michael.duchek@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2187/P1dn
MED:eev:rs

May 6, 2013

Alex:

I did not add the requested language to the statutes of "per violation" because the second sentence of this provision provides that each day of continued violation constitutes a separate offense, which I think conveys this idea. If you still feel this language is necessary, please let me know, but in that case I would recommend also addressing s. 254.30 (2) (b), stats., because it contains language similar to the provision being amended.

Michael Duchek
Legislative Attorney
Phone: (608) 266-0130
E-mail: michael.duchek@legis.wisconsin.gov

Duchek, Michael

From: Ignatowski, Alex - DHS <Alex.Ignatowski@dhs.wisconsin.gov>
Sent: Monday, May 13, 2013 12:05 PM
To: Duchek, Michael
Subject: RE: Draft review: LRB -2187/P1 Topic: Increase penalty for violations of statutes related to lead poisoning/exposure

Lets do introducible. Thanks Mike!

Alex Ignatowski
Legislative Advisor
Department of Health Services
Office: 608-266-3262
Mobile: 608-301-6149
alex.ignatowski@wisconsin.gov

From: Duchek, Michael [mailto:Michael.Duchek@legis.wisconsin.gov]
Sent: Monday, May 13, 2013 11:49 AM
To: Ignatowski, Alex - DHS
Subject: RE: Draft review: LRB -2187/P1 Topic: Increase penalty for violations of statutes related to lead poisoning/exposure

OK Alex. Do you want an introducible version or a /P2?

-Mike

From: Ignatowski, Alex - DHS [mailto:Alex.Ignatowski@dhs.wisconsin.gov]
Sent: Monday, May 13, 2013 10:17 AM
To: Duchek, Michael
Subject: RE: Draft review: LRB -2187/P1 Topic: Increase penalty for violations of statutes related to lead poisoning/exposure

Mike,

Sorry it took me so long to get back to you. Please include the "per violation" language in both s. 254.30 (2) (a) and 254.30 (2) (b) in the redraft. Let me know if you have any other questions.

Regards,

Alex

Alex Ignatowski
Legislative Advisor
Department of Health Services
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Mobile: 608-301-6149
alex.ignatowski@wisconsin.gov

From: Duchek, Michael [<mailto:Michael.Duchek@legis.wisconsin.gov>]
Sent: Monday, May 06, 2013 3:59 PM
To: Ignatowski, Alex - DHS
Subject: RE: Draft review: LRB -2187/P1 Topic: Increase penalty for violations of statutes related to lead poisoning/exposure

Alex,

I understand. However, as I mentioned in the drafter's note, having the "per violation" language in one provision, but not the other, could lead one to believe that a difference is intended. So, as I said, I would recommend including it in both s. 254.30 (2) (a) and 254.30 (2) (b), assuming that no such difference is intended on that point. However, if you prefer me to redraft it and only include it in s. 254.30 (2) (a), I can do that. Just let me know how you want to proceed.

-Mike

From: Ignatowski, Alex - DHS [<mailto:Alex.Ignatowski@dhs.wisconsin.gov>]
Sent: Monday, May 06, 2013 3:12 PM
To: Duchek, Michael
Subject: FW: Draft review: LRB -2187/P1 Topic: Increase penalty for violations of statutes related to lead poisoning/exposure

Hi Mike –

Please see the below response from our Legal Council Staff. They would like to have the "per violation" language included.

Thanks!

Alex Ignatowski
Legislative Advisor
Department of Health Services
Office: 608-266-3262
Mobile: 608-301-6149
alex.ignatowski@wisconsin.gov

From: Wendorff, Eric J - DHS
Sent: Monday, May 06, 2013 3:08 PM
To: Ignatowski, Alex - DHS
Cc: Bruce, Shelley A - DHS; Warzecha, Charles J - DHS
Subject: RE: Draft review: LRB -2187/P1 Topic: Increase penalty for violations of statutes related to lead poisoning/exposure

Alex,

We want the "per violation" included because this language is specified in the EPA regulations we need to comply with in order to operate the lead certification program. The federal authority is 40 CFR 745.327 (b) (3) (ii) and (iii). A copy of the regulation is attached. Section 254.30 (2) (b) does not need to be changed to meet federal EPA standards, which refer to civil forfeitures. The question for me is whether adding this unnecessary language to the criminal statute will lead to opposition to the change we need.

Eric

Eric J. Wendorff, Attorney
Wisconsin Department of Health Services
eric.wendorff@dhs.wi.gov
1 W. Wilson St., Rm. 650, P.O. Box 7850
Madison, WI 53707-7850
608.266.1258 FAX 608.267.1434

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From: Ignatowski, Alex - DHS
Sent: Monday, May 06, 2013 12:54 PM
To: Wendorff, Eric J - DHS
Subject: FW: Draft review: LRB -2187/P1 Topic: Increase penalty for violations of statutes related to lead poisoning/exposure

Hi Eric – Just got this in from LRB. Please let me know your thoughts on the draft and drafter's note. Thanks!

Alex Ignatowski
Legislative Advisor
Department of Health Services
Office: 608-266-3262
Mobile: 608-301-6149
alex.ignatowski@wisconsin.gov

From: LRB.Legal [<mailto:LRB-LegalServices@legis.wisconsin.gov>]
Sent: Monday, May 06, 2013 12:51 PM
To: Ignatowski, Alex - DHS
Subject: Draft review: LRB -2187/P1 Topic: Increase penalty for violations of statutes related to lead poisoning/exposure

Following is the PDF version of draft LRB -2187/P1 and drafter's note.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-21874-1
MED:eev:rs

other

stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT *to amend* 254.30 (2) (a) of the statutes; **relating to:** penalties for
2 violating provisions related to lead poisoning and exposure and providing a
3 penalty.

Analysis by the Legislative Reference Bureau

Current law contains a number of provisions related to preventing and minimizing lead poisoning and lead exposure, including provisions prohibiting the sale and use of lead paint and requiring screenings for lead exposure for certain programs and institutions. Current law provides that any person who violates these provisions or rules promulgated, or orders issued, under these provisions is subject to a civil forfeiture of not less than \$100 nor more than \$1,000 and provides that each day of continued violation constitutes a separate offense. This bill increases the maximum amount of the civil forfeiture for such a violation from \$1,000 to \$5,000.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 SECTION 1. 254.30 (2) (a) of the statutes is amended to read:
5 254.30 (2) (a) *Civil penalty.* Any person who violates ss. 254.11 to 254.178 or
6 rules promulgated, or orders issued, under those sections may be required to forfeit.

per violation

1 not less than \$100 nor more than ~~\$1,000~~ \$5,000 Each day of continued violation
2 constitutes a separate offense.

3 **SECTION 2. Initial applicability.**

4 (1) This act first applies to violations of sections 254.11 to 254.178 of the
5 statutes or rules promulgated, or orders issued, under those sections that occur on
6 the effective date of this subsection.

7 (END)

Ins
2-2

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2187/P2ins
MED:.....

INSERT 2-2

✕

1 **SECTION 1.** 254.30 (2) (b) of the statutes is amended to read:
2 254.30 **(2)** (b) *Criminal penalty.* Any person who knowingly violates any
3 provision of ss. 254.11 to 254.178 or any rule promulgated, or order issued, under
4 those sections shall be fined not less than \$100 nor more than \$5,000 per violation.
5 The court may place the person on probation under s. 973.09 for a period not to exceed
6 2 years.

History: 1979 c. 221; 1987 a. 332; 1993 a. 27 s. 439; Stats. 1993 s. 254.30; 1993 a. 450.

Rose, Stefanie

From: Ignatowski, Alex - DHS <Alex.Ignatowski@dhs.wisconsin.gov>
Sent: Tuesday, May 14, 2013 4:53 PM
To: LRB.Legal
Subject: Draft Review: LRB -2187/1 Topic: Increase penalty for violations of statutes related to lead poisoning/exposure

Please Jacket LRB -2187/1 for the ASSEMBLY.